



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 10, 1996

Mr. Michael C. Hays
Assistant City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 75201

OR96-2334

Dear Mr. Hays:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102316.

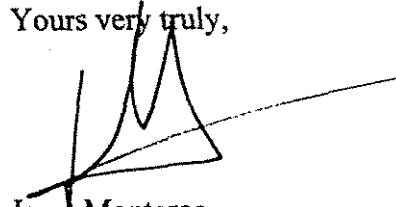
The City of El Paso (the "city") received a request for a copy of the driving record of a particular city bus driver. You assert that the requested information is excepted from disclosure under section 552.103(a) of the Government Code.

To secure the protection of section 552.103(a), a governmental entity must first show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.-Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You contend that the requested driving record is related to pending litigation. You have provided for our review a copy of a petition showing that litigation is pending. We have reviewed the submitted documents and we agree that they are related to the pending litigation. Thus, you may withhold the driving record from disclosure pursuant to section 552.103(a).

We note that when the opposing party in the litigation has seen or had access to any of the information in these records, there is no justification for withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Janet Monteros', written over a horizontal line.

Janet Monteros
Assistant Attorney General
Open Records Division

JIM/SAB/rho

Ref.: ID# 102316

Enclosures: Submitted documents

cc : Ms. Yahara Lisa Gutierrez
Gay & Gutierrez
1301 East River
El Paso, Texas 79902
(w/o enclosures)